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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/653,202	09/03/2003	Jac-Deog Cho	1293.1953	1755

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EXAMINER

NEGRON, DANIEL L

ART UNIT	PAPER NUMBER
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2651

DATE MAILED: 11/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

✓10/653,202

Applicant(s)

CHO, JAE-DEOG

Examiner

Daniell L. Negrón

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-16 and 18-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-16 and 18-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 5, 9-12, 16, and 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Jen et al U.S. Patent No. 6,405,277.

Regarding claims 1, 3, 5, 9-12, 16, and 18-20, the rejections applied to the claims in the previous Office action mailed December 14, 2004 are herein repeated for the same reasons (see Response to Arguments).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jen et al U.S. Patent No. 6,405,277 in view of Kittilson et al U.S. Patent No. 6,078,452.

Regarding claim 2, the rejection applied to claim 2 in the previous Office action mailed December 14, 2004 is herein repeated for the same reasons (see Response to Arguments).

Claims 6, 8, 13, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jen et al U.S. Patent No. 6,405,277 in view of Yasuda et al U.S. Patent No. 5,357,381.

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Regarding claims 6, 8, 13, and 15 the rejections applied to the claims in the previous Office action mailed December 14, 2004 are herein repeated for the same reasons (see Response to Arguments).

5. Claims 7 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jen et al U.S. Patent No. 6,405,277 in view of Nguyen U.S. Patent No. 6,611,397.

Regarding claims 7 and 14 the rejections applied to the claims in the previous Office action mailed December 14, 2004 are herein repeated for the same reasons (see Response to Arguments).

Response to Arguments

Applicant's arguments filed July 22, 2005 have been fully considered but they are not persuasive. In the response to the previous Office action mailed on December 14, 2004, Applicant argues that Jen et al fail to disclose detecting of the recording error comprising comparing data stored in a buffer with the read recorded data. Examiner however respectfully disagrees since Jen et al clearly shows comparing a recorded data (i.e., data written to a previously reserved spare space on the device), with data stored in a buffer (i.e., data to be saved), in column 8, lines 2-14 of the reference. Jen's "data to be saved" is considered consistent with Applicant's data stored in a buffer since the buffer shown by Jen et al (74) is used for the purpose of saving data being transferred from the host to the disk drive and data being transferred to the recording channel to be recorded on a disk medium. Therefore it is considered that Jen et al discloses comparing data stored in a buffer with data recorded on a disk, and the reference is consistent with the Applicant's invention as claimed.

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Regarding claims 6, 8, 13, and 15, in response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Jen et al discloses all the limitations of independent claim 10 as discussed above but fails to explicitly show the claimed limitations of claims 13 and 15. Yasuda et al is introduced since the disclosure shows an apparatus for detecting errors in data recorded on a disk wherein data is recorded in a reserved sector (i.e. alternate area) in an inner radial area (i.e. inner side) when a data error is detected in an identification (ID) area of the sector for the purpose of recording additional data related to the data error in an area other than the original location of the data (Fig. 2, column 1, lines 30-51, and column 2, lines 5-11). Although Jen et al does not provide the motivation to combine the references (as argued by Applicant), it is considered that the disclosure of Yasuda et al provides motivation to combine its features with the teachings of Jen et al, the benefit being that access speed of data recorded on a defective area of a disk medium would be improved.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**


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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniell L. Negrón whose telephone number is 571-272-7559. The examiner can normally be reached on Monday-Friday (8:30am-5:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David R. Hudspeth can be reached on 571-272-7843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DLN 
October 19, 2005


DAVID HUDSPETH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600